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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,437	08/29/2001	Shawn R. Gettemy	PALM-3678	7439

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EXAMINER

BELL, PAUL A

ART UNIT	PAPER NUMBER
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2675

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,437

Applicant(s)

GETTEMY, SHAWN R.

Examiner

PAUL A BELL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "said time period's setting", in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 recites the limitation "said time delay" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 13, 15, 25, 26, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Helms (5,760,760).

With regard to claim 1, Helms teaches a portable computer system (figure 1) comprising:
a processor coupled to a bus (figure 2, item 204a); a light sensor coupled to said bus and for providing an ambient light information signal to said processor (figure 2, item 14); a lighted

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display device coupled to said bus and for providing a visual display (figure 2, item 12); a display controller coupled to said bus and for controlling said visual display (figure 2, item 204); a data storage device coupled to said bus and comprising reconfigured dynamically adjustable brightness range setting data for implementing a plurality of different ranges, and wherein said processor automatically selects a stored range of said plurality of stored ranges based on said ambient light information signal from said light sensor (abstract last two lines, and figure 2, item 204b and column 2, lines 12-15 and lines 35-39).

With regard to claim 2, Helms teaches the portable computer system of Claim 1 further comprising an adjustment display for enabling the user to adjust a brightness setting within said selected range for said display device (figure 2, item 16).

With regard to claim 3, Helms teaches the portable computer system of Claim 1 wherein said lighted display device is transmissive (figure 2, item 12).

With regard to claim 13, Helms teaches a portable electronic device (figure 1) comprising: a processor coupled to a bus (figure 2, item 204a); a light sensor coupled to said bus and for providing ambient light information signal to said processor (figure 2, item 14); a lighted display device coupled to said bus and for providing a visual display (figure 2, item 12); a display controller and for controlling said visual display (figure 2, item 204); a data storage device coupled to said bus and comprising reconfigured dynamically adjustable brightness ranges; and wherein said processor selects a brightness range of said stored brightness ranges based on preset

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range configuration data and said ambient light information signal from said light sensor (abstract last two lines, and figure 2, item 204b and column 2, lines 12-15 and lines 35-39).

With regard to claim 15, Helms teaches the portable electronic device of Claim 13 wherein said lighted display device is transmissive (figure 2, item 12).

With regard to claim 25, Helms teaches in a portable electronic device (figure 1), a method of responding to a change in ambient light conditions comprising: a) detecting said change in ambient light conditions and generating a signal in response thereto (figure 2, item 14); b) in response to said signal, a processor (figure 2, item 204a) of said portable electronic device selecting a brightness range from a plurality of stored brightness ranges based on reconfigured range information; and c) implementing said brightness range to alter the brightness of a display device (figure 2, item 12) of said portable electronic device (figure 2, item 204b and column 2, lines 12-15 and lines 35-39).

With regard to claim 26 Helms teaches a method as described in Claim 25 further comprising: d) allowing a user to adjust a brightness setting within said selected brightness range; and e) altering said brightness of said display device based on said brightness setting (figure 2, item 16).

With regard to claim 28 Helms teaches a method as described in Claim 25 wherein c) comprises employing a time delay between any brightness transition of said display device (It is inherent that there is a time delay).

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With regard to claim 29 Helms teaches a method as described in Claim 25 wherein a) is performed by a light sensor of said portable electronic device (figure 2, item 14).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-6 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helms (5,760,760).

With regard to claims 4-6 and 16-18 Helms did not give an illustration of the portable computer system of Claim 1 wherein said lighted display device is emissive, reflective and transflective.

However such display types are well-known alternatives to the LCD illustrated by Helms, therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute other well-know display types for an LCD absent unexpected results because such other simple applications of the Helms concept are viewed as merely directed towards an "OBVIOUS INTENDED USE" of the Helms invention where he states this in column 6, lines 29-52 to summarize, a LCD was used to be illustrative of the concept only. It is

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further obvious that depending on cost and availability of parts one would be motivated to use one or the other display type .

7. Claims 7-12, 30, 14, 19-24, 31 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helms (5,760,760) in view of Wagner (5,933,130).

With regard to claim 7, Helms does not teach the portable computer system of Claim 2 wherein said adjustment display comprises a brightness bar with user adjustable slider.

Wagner teaches "adjustment display comprises a brightness bar with user adjustable slider" (See Wagner figure 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the brightness bar slider as taught by Wagner in the apparatus of Helms because Wagner illustrated that it is a well-known practice in the prior art to use a brightness bar slider instead of a mechanical knob and in addition a GUI is more simple and cost effective then having a specific dedicated mechanical control.

With regard to claim 8, the combination of Helms and Wagner teaches the portable computer system of Claim 7 wherein said adjustment display comprises a plurality of selectable brightness levels (See Helms column 2, lines 35-38 also see Wagner figure 9 item 62 "SELECT RANGE").

With regard to claim 9, the combination of Helms and Wagner teaches the portable computer system of Claim 8 wherein, *based on a position of said user-adjustable slider*, the relative brightness setting remains unchanged *with respect to a range* upon an *automatic* change

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from one selected range to another selected range (See Wagner figure 9 item 62 “SELECT RANGE” since range is just the defined max and min for that selected range it is inherent that the relative brightness for any given range would stay the same if the user-adjustable slider stayed in the same position).

With regard to claim 10, the combination of Helms and Wagner teaches the portable computer system of Claim 9 wherein said display controller adjusts brightness of said display device according to said range and brightness setting (See Helms column 2, lines 35-39).

With regard to claim 11, the combination of Helms and Wagner teaches the portable computer system of claim 10 further comprising a time period for implementing any brightness changes to said display device (inherent feature because there is some delay from the instant in time when a change is set to the instant in time when it is executed so therefore it must have a “time period” as broadly claimed).

With regard to claim 12, the combination of Helms and Wagner teaches the portable computer system of claim 11, wherein said time period’s setting is fixed (See Wagner figure 9. Item 65, column 10, lines 19-47).

With regard to claim 30, the combination the combination of Helms and Wagner, teaches the portable computer system of claim 11, wherein said time period’s setting is fixed (See Wagner figure 9 items 64 and 65, column 10, lines 19-47).

With regard to claims 14, 19, 20 and 21 the combination of Helms and Wagner was shown in claims 7-9 to read on the limitations claimed.

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With regard to claim 22 the combination of Helms and Wagner teach the portable electronic device of Claim 21 wherein said display controller implements adjustment to brightness of said display device according to said selected brightness range and brightness setting (See Helms column 2, lines 35-42).

With regard to claims 23, 24, and 31 the combination of Helms and Wagner was shown in claims 11, 12, and 30 to read on the limitations claimed, wherein "time delay" reads on "time period" in the context of this broad language used.

With regard to claim 27 the combination of Helms and Wagner was shown in claim 7 to read on method as described in Claim 26 wherein said d) is implemented using a graphical user interface.

Response to Arguments

8. Applicant's arguments filed 12 November 2003 have been fully considered but they are not persuasive.

The applicant argues on pages 9-17 with regard to independent claims 1, 13 and 25, that Helms does not teach or suggest the limitation of claim 1 in which the portable computer system comprises "... reconfigured dynamically adjustable brightness range setting data for implementing a plurality of different ranges; and wherein said processor automatically selects a stored range of said plurality of stored ranges based on said ambient light information signal from said light sensor."

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The examiner disagrees because the cited Helms column 2, lines 35-39 clearly states;
“the brightness control circuitry comprises some form of artificial intelligence for learning, a user’s preferred brightness level, or **range of brightness levels, in various ambient lighting conditionS**”

This language makes clear that there are a plurality of conditions and that each condition has a range of brightness levels. This Helms reference clearly reads on the broad language used. And also further note that Wagner reads on this “range” language to and was used in a 103 with Helms when more details were used.

The applicant on page 10 argues that Helms apparatus is not a “portable computer”.

The examiner disagrees and refers to Helms figure 1 which shows a Laptop portable computer.

The applicant argues on page 10 with regard to claim 9 that Helms does not teach or suggest “the relative brightness setting remains unchanged with respect to a range upon an automatic change from one selected range to another selected range”.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The examiner references the detailed rejection above.

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Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Bell whose telephone number is (703) 306-3019.

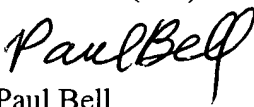
Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to: (703) 872-9306

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.


Paul Bell
Art unit 2675
20 January 2004


CHANH NGUYEN
PRIMARY EXAMINER